

AMENDED IN SENATE MARCH 17, 2010

AMENDED IN SENATE FEBRUARY 23, 2010

AMENDED IN ASSEMBLY JUNE 1, 2009

AMENDED IN ASSEMBLY MAY 14, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 790

Introduced by Assembly Members Hernandez and Ruskin

February 26, 2009

An act to add Section 1232 to the Government Code, relating to ~~state employees~~ *the state budget*, making an appropriation ~~therefor~~ *for the expenses of the government of the State of California*, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 790, as amended, Hernandez. ~~State employees: compensation. budget impasse: continuation of services.~~

The California Constitution requires the Legislature to pass a ~~budget bill~~ *Budget Bill* by June 15 of each year for the fiscal year commencing on July 1. Existing law provides that no state officer or employee shall be deemed to have a break in service or to have terminated his or her employment, for any purpose, or to have incurred any change in his or her authority, status, or jurisdiction or in his or her salary or other conditions of employment, solely because of the failure to enact a Budget Act for a fiscal year prior to the beginning of that fiscal year. Under the California Constitution, money may be drawn from the State Treasury only through an appropriation made by law and upon a Controller's duly drawn warrant.

This bill would continuously appropriate from the General Fund and other specified funds to the Controller an amount necessary for the payment of compensation and employee benefits to state employees, as defined, for work performed on or after July 1 of a fiscal year for which no budget has been enacted.

This bill would specify, if a memorandum of understanding is in effect that has been approved by the Legislature, that the compensation and contribution for employee benefits for represented state employees be at a rate consistent with the memorandum of understanding and, for state employees excluded from collective bargaining, at the rate approved by the Department of Personnel Administration prior to the commencement of the fiscal year for which a Budget Act has not been enacted. The bill would require, if a memorandum of understanding is not in effect for represented state employees and the department has not approved a compensation package for state employees excluded from collective bargaining, that the compensation and contribution for employee benefits for represented state employees and state employees excluded from collective bargaining be at the rate in effect at the expiration of the last fiscal year for which a budget was enacted.

The Budget Act of 2009 appropriated funds for support of state government for the 2009–10 fiscal year.

This bill would appropriate \$12,000,000,000 from the General Fund and other funds and sources, as specified, to the Controller for allocation by the Director of Finance pursuant to an executive order issued by the Governor to pay the current expenses of the state government, excluding salaries and per diem of the Members of the Legislature and salaries of state employees paid pursuant to the provisions described above, for the period commencing on July 1, 2010, and ending on the date that the Budget Act of 2010 is signed by the Governor, or August 31, 2010, whichever is earlier.

This bill would state the Legislature's intent to provide emergency funding while the Legislature enacts a budget.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1232 is added to the Government Code,
2 to read:

3 1232. (a) Notwithstanding Section 13340, in any fiscal year
4 in which the Budget Act is not enacted by July 1 of that fiscal year,
5 there is hereby continuously appropriated without regard to fiscal
6 years to the Controller from the General Fund, unallocated special
7 funds, federal funds, and any other fund from which state
8 employees are compensated, the amount necessary for the payment
9 of compensation and employee benefits to state employees until
10 the Budget Act of that fiscal year is enacted. The Controller may
11 expend an amount no greater than that necessary to enable the
12 Controller to compensate state employees for work performed
13 between July 1 of the applicable fiscal year and the enactment of
14 the Budget Act.

15 (b) If there is a memorandum of understanding in effect that
16 has been approved by the Legislature, the compensation and
17 contribution for employee benefits for represented state employees
18 shall be at a rate consistent with the memorandum of understanding
19 and compensation and contribution for employee benefits for state
20 employees excluded from collective bargaining shall be at the rate
21 approved by the Department of Personnel Administration prior to
22 the commencement of the fiscal year for which a Budget Act has
23 not been enacted. If a memorandum of understanding is not in
24 effect and if the department has not approved a compensation
25 package for state employees excluded from collective bargaining,
26 compensation and contribution for employee benefits for
27 represented state employees and state employees excluded from
28 collective bargaining shall be at the rate in effect at the expiration
29 of the last fiscal year for which a budget was enacted.

30 (c) The Department of Finance may, upon enactment of the
31 Budget Act and in the absence of this action being taken by the
32 Legislature or the Governor in that Budget Act, reduce the
33 applicable Budget Act allocations by the amount of any warrants
34 drawn pursuant to subdivision (a).

35 (d) For the purposes of this section, "state employee" means an
36 employee as defined in Section 19815.

37 SEC. 2. (a) *The sum of twelve billion dollars (\$12,000,000,000)*
38 *is hereby appropriated to the Controller from the funds and sources*

1 set forth in subdivision (b), for allocation by the Director of
2 Finance pursuant to an executive order issued by the Governor,
3 for the exclusive purpose of the payment of the current expenses
4 of the government of the State of California, excluding salaries
5 and per diem of Members of the Legislature and salaries of state
6 employees paid pursuant to Section 1 of this act, for the period
7 commencing on July 1, 2010, and ending on the date that the
8 Budget Act of 2010 is signed by the Governor, or August 31, 2010,
9 whichever is earlier. The allocation of the funds appropriated by
10 this subdivision by the Director of Finance shall be to maintain a
11 level of service by the government of the State of California that
12 does not exceed the level of service authorized and funded for the
13 2009–10 fiscal year.

14 (b) The Director of Finance shall allocate the funds
15 appropriated by subdivision (a) from the following funds and
16 sources:

- 17 (1) \$3,000,000,000 from the General Fund.
- 18 (2) \$1,200,000,000 from appropriate special funds.
- 19 (3) \$1,200,000,000 from appropriate bond funds.
- 20 (4) \$3,000,000,000 from appropriate federal funds.
- 21 (5) \$2,400,000,000 from appropriate nongovernmental cost
22 funds.

- 23 (6) \$1,200,000,000 from appropriate reimbursements.

24 (c) It is the intent of the Legislature to provide continuous,
25 uninterrupted emergency funding to pay for the health care of
26 Medi-Cal patients, child care services, programs for the disabled,
27 and other key programs in the event of a budget impasse. Hospitals
28 and nursing homes across the state depend on Medi-Cal payments
29 to keep their doors open to care for the poor, the blind, and the
30 disabled. Programs for those in need should not be interrupted
31 while the Legislature works towards a balanced budget.

32 There is precedent for emergency funding such as this. In 1998,
33 the Legislature passed Senate Bill 267 (Chapter 213 of the Statutes
34 of 1998), introduced by Senator Maddy (Coauthors Senator Solis
35 and Assembly Members Ashburn and Honda), which provided
36 emergency funding for the current expenses of the state. This
37 urgency measure provided that in the absence of the enactment of
38 the annual Budget Act by July 1, 1998, \$18,959,000,000 was
39 appropriated from the General Fund and other funds and sources
40 to be used to pay the current expenses of the state government,

1 *excluding salaries and per diem of the Members of the Legislature,*
2 *from July 1, 1998, to August 5, 1998, inclusive. The Legislature*
3 *also passed Assembly Bill 561 (Chapter 993 of the Statutes of*
4 *1998), which authorized loans of up to \$2,000,000,000 to continue*
5 *payments specifically to Medi-Cal providers, providers of*
6 *drug-treatment services, and providers of services to the*
7 *developmentally disabled during a budget stalemate.*

8 *It is the intent of the Legislature to again provide continuous*
9 *funding to provide care for the most needy children, elderly, poor,*
10 *and disabled.*

11 ~~SEC. 2.~~

12 SEC. 3. This act is an urgency statute necessary for the
13 immediate preservation of the public peace, health, or safety within
14 the meaning of Article IV of the Constitution and shall go into
15 immediate effect. The facts constituting the necessity are:

16 ~~In order that state employees may be compensated for work~~
17 ~~performed without delay in the event of a budget impasse, and in~~
18 ~~order that funds may be continuously appropriated to the Controller~~
19 ~~at the earliest possible time for the purposes of compensating state~~
20 ~~employees—~~*In order that, in the event of a budget impasse,*
21 *appropriations may be made at the earliest possible time to*
22 *continue key state programs and to compensate state employees*
23 *for work performed, it is necessary that this act take effect*
24 *immediately.*